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HOUSE BILL NO. 574**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on General Laws
on February 3, 2022)

(Patron Prior to Substitute—Delegate Krizek)

*A BILL to amend and reenact § 59.1-392 of the Code of Virginia, relating to horse racing tax.***Be it enacted by the General Assembly of Virginia:****1. That § 59.1-392 of the Code of Virginia is amended and reenacted as follows:****§ 59.1-392. Percentage retained; tax.**

A. Any person holding an operator's license to operate a horse racetrack or satellite facility in the Commonwealth pursuant to this chapter shall be authorized to conduct pari-mutuel wagering on horse racing subject to the provisions of this chapter and the conditions and regulations of the Commission.

B. On pari-mutuel pools generated by wagering at the racetrack on live horse racing conducted within the Commonwealth, involving win, place and show wagering, the licensee shall retain a percentage amount approved by the Commission as jointly requested by a recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be paid one and one-quarter percent to be distributed as follows: one percent to the Commonwealth as a license tax and one-quarter percent to the locality in which the racetrack is located. The remainder of the retainage shall be paid as provided in subsection D, provided, however, that if the percentage amount approved by the Commission is other than 18 percent, the amounts provided in subdivisions D 1, 2 and 3 shall be adjusted by the proportion that the approved percentage amount bears to 18 percent.

C. On pari-mutuel pools generated by wagering at each Virginia satellite facility on live horse racing conducted within the Commonwealth, involving win, place and show wagering, the licensee shall retain a percentage amount approved by the Commission as jointly requested by a recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be paid one and one-quarter percent to be distributed as follows: three-quarters percent to the Commonwealth as a license tax, one-quarter percent to the locality in which the satellite facility is located, and one-quarter percent to the locality in which the racetrack is located. The remainder of the retainage shall be paid as provided in subsection D; provided, however, that if the percentage amount approved by the Commission is other than 18 percent, the amounts provided in subdivisions D 1, 2 and 3 shall be adjusted by the proportion that the approved percentage amount bears to 18 percent.

D. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on live horse racing conducted within the Commonwealth, involving win, place and show wagering, the licensee shall retain a percentage amount approved by the Commission as jointly requested by a recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be paid:

1. Eight percent as purses or prizes to the participants in such race meeting;
2. Seven and one-half percent, and all of the breakage and the proceeds of pari-mutuel tickets unredeemed 180 days from the date on which the race was conducted, to the operator;
3. One percent to the Virginia Breeders Fund;
4. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
5. Five one-hundredths percent to the Virginia Horse Center Foundation;
6. Five one-hundredths percent to the Virginia Horse Industry Board; and
7. The remainder of the retainage shall be paid as appropriate under subsection B or C.

E. On pari-mutuel pools generated by wagering at the racetrack on live horse racing conducted within the Commonwealth involving wagering other than win, place and show wagering, the licensee shall retain a percentage amount approved by the Commission as jointly requested by a recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be paid two and three-quarters percent to be distributed as follows: two and one-quarter percent to the Commonwealth as a license tax, and one-half percent to the locality in which the racetrack is located. The remainder of the retainage shall be paid as provided in subsection G; provided, however, that if the percentage amount approved by the Commission is other than 22 percent, the amounts provided in subdivisions G 1, 2 and 3 shall be adjusted by the proportion that the approved percentage amount bears to 22 percent.

F. On pari-mutuel pools generated by wagering at each Virginia satellite facility on live horse racing conducted within the Commonwealth involving wagering other than win, place and show wagering, the licensee shall retain a percentage amount approved by the Commission as jointly requested by a recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be paid two and three-quarters percent to be distributed as follows: one and three-quarters percent to the

60 Commonwealth as a license tax, one-half percent to the locality in which the satellite facility is located,
61 and one-half percent to the locality in which the racetrack is located. The remainder of the retainage
62 shall be paid as provided in subsection G; provided, however, that if the percentage amount approved by
63 the Commission is other than 22 percent, the amounts provided in subdivisions G 1, 2 and 3 shall be
64 adjusted by the proportion that the approved percentage amount bears to 22 percent.

65 G. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on
66 live horse racing conducted within the Commonwealth involving wagering other than win, place and
67 show wagering, the licensee shall retain a percentage amount approved by the Commission as jointly
68 requested by a recognized majority horsemen's group and a licensee and the legitimate breakage, out of
69 which shall be paid:

- 70 1. Nine percent as purses or prizes to the participants in such race meeting;
- 71 2. Nine percent, and the proceeds of the pari-mutuel tickets unredeemed 180 days from the date on
72 which the race was conducted, to the operator;
- 73 3. One percent to the Virginia Breeders Fund;
- 74 4. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
- 75 5. Five one-hundredths percent to the Virginia Horse Center Foundation;
- 76 6. Five one-hundredths percent to the Virginia Horse Industry Board; and
- 77 7. The remainder of the retainage shall be paid as appropriate under subsection E or F.

78 H. On pari-mutuel wagering generated by simulcast horse racing transmitted from jurisdictions
79 outside the Commonwealth, the licensee may, with the approval of the Commission, commingle pools
80 with the racetrack where the transmission emanates or establish separate pools for wagering within the
81 Commonwealth. All simulcast horse racing in this subsection must comply with the Interstate Horse
82 Racing Act of 1978 (15 U.S.C. § 3001 et seq.).

83 I. On pari-mutuel pools generated by wagering at the racetrack on simulcast horse racing transmitted
84 from jurisdictions outside the Commonwealth, involving win, place and show wagering, the licensee
85 shall retain one and one-quarter percent of such pool to be distributed as follows: three-quarters percent
86 to the Commonwealth as a license tax, and one-half percent to the Virginia locality in which the
87 racetrack is located.

88 J. On pari-mutuel pools generated by wagering at each Virginia satellite facility on simulcast horse
89 racing transmitted from jurisdictions outside the Commonwealth, involving win, place and show
90 wagering, the licensee shall retain one and one-quarter percent of such pool to be distributed as follows:
91 three-quarters percent to the Commonwealth as a license tax, one-quarter percent to the locality in which
92 the satellite facility is located, and one-quarter percent to the Virginia locality in which the racetrack is
93 located.

94 K. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on
95 simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving win, place
96 and show wagering, the licensee shall retain one and thirty one-hundredths percent of such pool to be
97 distributed as follows:

- 98 1. One percent of the pool to the Virginia Breeders Fund;
- 99 2. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
- 100 3. Five one-hundredths percent to the Virginia Horse Center Foundation;
- 101 4. Five one-hundredths percent to the Virginia Horse Industry Board; and
- 102 5. Five one-hundredths percent to the Virginia Thoroughbred Association for the promotion of
103 breeding in the Commonwealth.

104 L. On pari-mutuel pools generated by wagering at the racetrack on simulcast horse racing transmitted
105 from jurisdictions outside the Commonwealth, involving wagering other than win, place and show
106 wagering, the licensee shall retain two and three-quarters percent of such pool to be distributed as
107 follows: one and three-quarters percent to the Commonwealth as a license tax, and one percent to the
108 Virginia locality in which the racetrack is located.

109 M. On pari-mutuel pools generated by wagering at each Virginia satellite facility on simulcast horse
110 racing transmitted from jurisdictions outside the Commonwealth, involving wagering other than win,
111 place and show wagering, the licensee shall retain two and three-quarters percent of such pool to be
112 distributed as follows: one and three-quarters percent to the Commonwealth as a license tax, one-half
113 percent to the locality in which the satellite facility is located, and one-half percent to the Virginia
114 locality in which the racetrack is located.

115 N. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on
116 simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving wagering
117 other than win, place and show wagering, the licensee shall retain one and thirty one-hundredths percent
118 of such pool to be distributed as follows:

- 119 1. One percent of the pool to the Virginia Breeders Fund;
- 120 2. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
- 121 3. Five one-hundredths percent to the Virginia Horse Center Foundation;

122 4. Five one-hundredths percent to the Virginia Horse Industry Board; and
 123 5. Five one-hundredths percent to the Virginia Thoroughbred Association for the promotion of
 124 breeding in the Commonwealth.

125 O. Moneys payable to the Commonwealth shall be deposited in the general fund. Gross receipts for
 126 license tax purposes under Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1 shall not include pari-mutuel
 127 wagering pools and license taxes authorized by this section.

128 P. All payments by the licensee to the Commonwealth or any locality shall be made within five days
 129 from the date on which such wagers are received by the licensee. All payments by the licensee to the
 130 Virginia Breeders Fund shall be made to the Commission within five days from the date on which such
 131 wagers are received by the licensee. All payments by the licensee to the Virginia-Maryland Regional
 132 College of Veterinary Medicine, the Virginia Horse Center Foundation, the Virginia Horse Industry
 133 Board, and the Virginia Thoroughbred Association shall be made by the first day of each quarter of the
 134 calendar year. All payments made under this section shall be used in support of the policy of the
 135 Commonwealth to sustain and promote the growth of a native industry.

136 Q. If a satellite facility is located in more than one locality, any amount a licensee is required to pay
 137 under this section to the locality in which the satellite facility is located shall be prorated in equal shares
 138 among those localities.

139 R. Any contractual agreement between a licensee and other entities concerning the distribution of the
 140 remaining portion of the retainage under subsections I through N and ~~subsection~~ subsections U and V
 141 shall be subject to the approval of the Commission.

142 S. The recognized majority horsemen's group racing at a licensed race meeting may, subject to the
 143 approval of the Commission, withdraw for administrative costs associated with serving the interests of
 144 the horsemen an amount not to exceed two percent of the amount in the horsemen's account.

145 T. The legitimate breakage from each pari-mutuel pool for live, historical, and simulcast horse racing
 146 shall be distributed as follows:

147 1. Seventy percent to be retained by the licensee to be used for capital improvements that are subject
 148 to approval of the Commission; and

149 2. Thirty percent to be deposited in the Racing Benevolence Fund, administered jointly by the
 150 licensee and the recognized majority horsemen's group racing at a licensed race meeting, to be disbursed
 151 with the approval of the Commission for gambling addiction and substance abuse counseling,
 152 recreational, educational or other related programs.

153 U. On pari-mutuel pools generated by wagering on historical horse racing *on the first 3,000 terminals*
 154 *authorized*, the licensee shall retain ~~one and one-quarter~~ 1.25 percent of such pool to be distributed as
 155 follows:

156 1. ~~Three-quarters~~ *Seventy-four hundredths* percent to the Commonwealth as a license tax *and 0.01*
 157 *percent to the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2;*
 158 and

159 2. a. If generated at a racetrack, ~~one-half~~ 0.5 percent to the locality in which the racetrack is located;
 160 or

161 b. If generated at a satellite facility, ~~one-quarter~~ 0.25 percent to the locality in which the satellite
 162 facility is located and ~~one-quarter~~ 0.25 percent to the Virginia locality in which the racetrack is located.

163 V. *On pari-mutuel pools generated by wagering on historical racing on the 2,000 terminals*
 164 *authorized by the seventh enactment of Chapters 1197 and 1248 of the Acts of Assembly of 2020, the*
 165 *licensee shall retain 1.6 percent of such pool to be distributed as follows:*

166 1. *Ninety-five hundredths percent to the Commonwealth as a license tax and 0.01 percent to the*
 167 *Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2; and*

168 2. a. *If generated at a racetrack, 0.64 percent to the locality in which the racetrack is located; or*

169 b. *If generated at a satellite facility, 0.32 percent to the locality in which the satellite facility is*
 170 *located and 0.32 percent to the Virginia locality in which the racetrack is located.*